

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 7055 OF 2013

Popat s/o Waman Bhosale,
age 64 years, occup. Retired person,
R/o Annapurna Nagar, Station Road,
Kopergaon, Taluka Kopergaon,
Dist. Ahmednagar Petitioner

VS

1. Laxmishri Investment
312, Sidharth Towers,
Sangam Press road,
Kothrud, Pune-411029,
the partner of Laxmishri
Investment
2. Govind s/o Jagannath More,
age major, occup. Medical
Practitioner,
R/o 303, Sidharth Towers,
Sangam Press road,
Kothrud, Pune-411029
3. Mrs. Priya w/o Arvind Sakorkar,
age major, occup. Business,
R/of- 312, Sidharth Towers,
Sangam Press road, Kothrud,
Pune-411029
4. Mrs. Madhuri w/o Govind More,
age major, occup. Medical Practitioner,
R/o 302, Sidharth Towers,
Sangam Press road, Kothrud,
Pune – 411 029

Mr. Amol S. Gandhi, Advocate for petitioner

CORAM : SUNIL P. DESHMUKH, J.
DATE : 20TH APRIL, 2015

ORDER

1. Mr. Gandhi submits that this writ petition was dismissed in default and has been restored and even after restoration, respondents have been served through paper publication.

2. Despite aforesaid, none appeared for respondents when the matter is called out today.

3. Learned counsel further points out that neither in the suit nor in the present petition, respondents have put in their appearance. As such at both the places, in the suit as well as in present writ petition, respondents were served through paper publication as was required in writ petition no. 6398 of 2013. He goes on to submit that rationale, reasons and circumstances as were involved in writ petition no. 6398 of 2013 apply on all fours to the facts of present writ petition.

4. Mr. Gandhi, learned counsel submits that application at Exhibit-43 in special civil suit no. 133 of 2011 seeking exhibition of promissory note had been rejected by learned Joint Civil Judge, Junior Division, Kopergaon under order dated 26-07-2013 and seeks remand of the matter for reconsideration of said application. For said purpose, Mr.

Gandhi refers to an order passed by learned single judge of this court dated 25-7-2014 allowing writ petition no. 6398 of 2013 and remanding the matter to the trial court for hearing of application – Exhibit 32 seeking exhibition of promissory note afresh.

5. He further submits, the suit concerned in said writ petition is similar to the one involved in the present petition and further that respondent no. 1 herein is the sister concern of respondent no. 1 in writ petition no. 6398 of 2013 and that the persons managing affairs of said concerns are also the same. He refers to that respondents no. 2 to 4 in this writ petition were also respondents in writ petition no.6398 of 2013.

6. Mr. Gandhi further submits that application at Exhibit-43 had been moved for exhibiting promissory note as in the case of application- Exhibit 32 which was the subject matter of writ petition no. 6398 of 2013. For the same reasons for which application at Exhibit-32 was rejected by trial court under order dated 15-07-2013, order on Exhibit 43 dated 26-07-2013 has been passed and, therefore, present petition has been moved.

7. As such, taking into account the position which goes

undisputed, I deem it appropriate to follow the course as in writ petition no. 6398 of 2013.

8. As such, for the very same reasons as have been recorded in the order dated 25-07-2014 in writ petition no. 6398 of 2013, present writ petition is allowed. Order dated 26-07-2013 on application at Exhibit-43 is set aside. Matter stands remanded to trial court for hearing on application Exhibit-43 afresh to consider prayer for exhibiting the promissory note as has been referred to in Exhibit-43. It should be deemed that the directions as contained in order dated 25-07-2013 in writ petition no. 6398 of 2013 shall also be directions in the present writ petition.

9. Writ petition stands disposed of.

SUNIL P. DESHMUKH, J.